

AMENDMENTS TO THE DRAWINGS

Please replace the drawings currently on file with the attached replacement drawings. The change is to add the designation "Prior Art" to Figure 6. An annotated sheet is also submitted to show the changes to Figure 6.

BEST AVAILABLE COPY

REMARKS

Claims 1, 2, 4-9, 11, 14, 15, 16 and 17 are pending. Claims 1, 5, 8, 15, 16 and 17 are the independent claims. Favorable reconsideration is requested.

As required in the Office Action, Figure 6 has been labeled "Prior Art."

In the Office Action, claims 1, 2, 5, 6, 8, 9, 15 and 16 were rejected under 35 U.S.C. § 103 over U.S. Patent 6,330,675 (Wiser) in view of U.S. Patent 5,412,730 (Jones). Claims 4, 7, 11 and 14 were rejected under 35 U.S.C. § 103 over Wiser and Jones and further in view of U.S. Patent 5,920,627 (Mionet). Applicant submits that the independent claims are patentable for at least the following reasons.

Claim 1 is directed to a data transmission system that includes calculation means for performing calculation using a variable on an original data stream read from a recording medium so as to produce a calculated data stream; variable creation means for creating the variable; a stream buffer for temporarily storing the calculated data stream therein; inverse calculation means for performing inverse calculation on the calculated data stream output from the stream buffer by using the variable so as to reproduce the data stream; stream processing means for processing the reproduced data stream to produce a processed data stream; and output means for outputting the processed data stream. The variable is changeable at either a regular or a random timing.

The Office Action again cited Wiser as teaching various features of the claim, but recognized that Wiser contains no teaching of changing the variable at an arbitrary timing. For this feature, the Office Action relied upon Jones.

Applicant has explained in previous responses that Wiser relates to a system that allows a home computer user to download a music file over the Internet and make a CD-ROM copy of it. The purpose of Wiser's system is to prevent unauthorized access/copying of a file, either during transmission on the Internet, or in the computer at the user's home computer.

Wiser uses a multi-step process that uses highly secure encryption and compression at the initial stage at which the music is downloaded to the user's computer over the Internet. However, once the downloaded file is in the user's computer, it is decrypted and decompressed and then encrypted again, with a somewhat less secure encryption algorithm. The less-securely encrypted file is stored as an intermediate file in local storage medium 212, after which the intermediate (less securely) encrypted file is decrypted, in piecemeal fashion, via temporary storage in local memory 216, before being sent to the recording device, which records a CD-ROM listenable by the user.

There is a reason for different levels of security: unlike systems that simply aim for more security in the abstract, Wiser uses less secure encryption within the computer because of the need to balance the speed required to perform the decryption against the speed of writing to a CD-ROM. To account for the fact that writing to CD-ROM requires a steady flow of data, Wiser employs a multi-step process, making use of an intermediate file, having a somewhat less secure encryption level, in combination with piecemeal decryption, to ensure that decryption is timed to meet the steady flow of data required for a CD-ROM write operation. The security of the less secure encryption is chosen so as to match the speed of the CD-ROM write operation, *not* so as to be as secure as possible.

Unfortunately, the last three Office Actions have operated on the incorrect assumption that more security is always better, under any circumstances. For this reason, the Office Actions have proposed modifying Wiser with a secondary reference, first Becker and now Jones, that would allegedly supply the feature of the independent claims of changing the variable at an arbitrary timing.

In the current Office Action, the position was again taken that it would have been obvious to have modified the Wiser system to add an encryption variable that changes at an arbitrary timing, this time as allegedly shown in Jones. Applicant again strongly disagrees.

In the first place, by changing the secondary reference to cite another reference that allegedly shows changing an encryption variable at an arbitrary timing, the Examiner has in

effect *ignored* Applicant's previous argument relating to the complete absence of the motivation to modify Wiser, in view of the balance achieved between more and less secure methods of encryption. Instead of addressing the argument, the Examiner has simply substituted a similar reference and maintained the rejection, saying that Applicant's arguments are rendered moot. In fact, those arguments apply to Jones as well and should have been addressed in this current Office Action.

As has been pointed out Wiser, does not provide *any* motivation for simply increasing the security level at its encryption engine 210. Instead, one reading the Wiser patent would be motivated to ensure that the *timing of encryption* and decryption in the user's computer is *maintained*.

That is, any search for a usable substitute encryption method for use in the encryption engine 210 would provoke *timing* concerns in a designer *rather than increased security concerns*. This point has yet to be addressed. Instead of addressing this point, the Examiner has simply provided another secondary reference that he alleges remedies the deficiencies of Wiser.

Wiser, due to the nature of its design, does not lend itself to being modified simply for the sake of adding more security. Even if, for some reason, a redesign were to be proposed for Wiser, (and there is no motivation shown that *any* redesign needs to be made) the motivation would be to choose an encryption method that would allow decryption engine 214 to allow *properly-timed write operations* to the CD-R medium.

Moreover, as has been pointed out previously, the use in Wiser of a variable that changes, either at a regular timing, or at a random timing, would only complicate the balance achieved by Wiser and in fact would *require compensation in the other of the two encryption algorithms* (that is, the algorithm other than the one the Examiner is proposing to add the changing variable to) to ensure that the required steady rate of data be delivered to the CD-ROM.

BEST AVAILABLE COPY

Further, since the teaching of Wiser is that the encryption engine 210 supplies a somewhat *less* secure encryption than that applied to the source file received over the Internet, a reading of this patent would provide *no* motivation for *increasing* the security at the encryption engine 210, when such a modification would result in a more complicated design to maintain the steady supply of data to the CD-ROM.

In view of the above, there is nothing in Wiser that would indicate that “the teachings of Wiser would have found the teachings of Jones beneficial in an attempt to further secure the data against an unauthorized user being able to encrypt the data,” contrary to the (quoted) statement at page 7 of the Office Action. In fact, simply further securing data, without taking into account the other design features of Wiser, would be of no benefit, as is made clear in the foregoing paragraphs.

For at least the foregoing reasons, there would be no motivation to modify the Wiser system in the claimed manner. Thus, no prima facie case of obviousness has been established.

Independent claims 5, 8, 15, 16 and 17 were rejected based on similarly incorrect reasoning. As discussed above, there is no motivation for modifying Wiser to meet the features of the independent claims relating to the calculation variable. For at least the foregoing reasons, no prima facie case of obviousness has been established with regard to any of independent claims 5, 8, 15, 16 and 17.

In view of the foregoing, all of the independent claims are believed clearly patentable over the cited references. If the Examiner seeks to maintain this rejection, or to find yet another secondary reference for the sake of adding more security to Wiser, Applicant requests that the motivation arguments presented above, and in the previous Office Actions, be addressed, point by point.

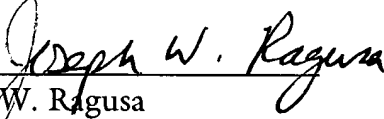
The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the

invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

In view of the above amendments and remarks, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: September 14, 2005

Respectfully submitted,

By 
Joseph W. Ragusa

Registration No.: 38,586
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas
41st Floor
New York, New York 10036-2714
(212) 835-1400
Attorney for Applicant

BEST AVAILABLE COPY



FIG.6
PRIOR ART

